



ILLINOIS COMMERCE COMMISSION

December 6, 2004

United Transportation Union -- Illinois Legislative Board,
Petitioner,

Vs.

Canadian Pacific Railroad,
Respondent

T04-0082

Complaint as to failure to provide adequate and convenient shelter facility at
West Yard in Bensenville, Illinois.

Mr. Timothy C. Lapp
Hiskes, Dillner, O'Donnell,
Marovich & Lapp, Ltd.
16231 Wausau Avenue
South Holland, IL 60473

Dear Mr. Lapp:

Receipt is acknowledged of the original and five (5) copies of the Complaint filed December 6, 2004 in the above matter.

All future correspondence/pleadings should be filed with an original and two (2) copies and addressed to: Mr. Dave Lazarides, Acting Director of Processing, Illinois Commerce Commission, 527 E. Capitol Avenue, Springfield, IL 62701 or you may file the original electronically through E-Docket if you have an account. To apply for an account, please log on to www.icc.state.il.us and apply for an E-docket account.

A copy of the Complaint is being served on the Respondent.

Processing and Information Section

kl

cc: Mr. Victor A. Modeer, IDOT
Ms. Teresa Shaw, Canadian Pacific
CT Corporation System, Canadian Pacific
Mr. Joseph Szabo, UTU
Mr. Steven Matrisch, ICC
Ms. Diana Collins, ICC

COPY

FORMAL COMPLAINT

Illinois Commerce Commission
527 E. Capitol Avenue
Springfield, IL 62701

RECEIVED
DEC 6 2004

Illinois Commerce Commission
RAIL SAFETY SECTION

Regarding a complaint

For Commission use only.

by United Transportation Union - Illinois Legislative Board Case T04-0082
(Person making the complaint)

File _____

against Canadian Pacific Railroad
(Utility name)

as to failure to provide adequate and convenient
shelter facility at West Yard
(Reason for complaint)

in Bensenville, Illinois.

TO THE ILLINOIS COMMERCE COMMISSION, SPRINGFIELD, ILLINOIS:

My mailing address is 8 S. Michigan Avenue, Suite 2006, Chicago, Illinois 60603.

The service address that I am complaining about is Canadian Pacific's Railroad Yard employees facilities at Bensenville, Illinois.

My home telephone number is N/A

Between 8:30 A.M. and 5:00 P.M., weekdays, I can be reached at (312) 236-5353.

Canadian Pacific Railroad (respondent) is a public utility and is subject to the provisions of the
(Full name of utility company)
Illinois Public Utilities Act.

In the space below, list the specific section of the law, Commission rule(s), or utility tariffs which you think are involved with your complaint.

1545.110, 1545.120, 1545.200 and 1545.210.

DOCKETED

DEC 6 2004

Have you contacted the Consumer Affairs Division of the Illinois Commerce Commission about this complaint?

_____ Yes _____ No

Has your complaint filed with that office been closed?

_____ Yes _____ No

Please state your complaint briefly. Number each of the paragraphs. Please include any specific time period and dollar amounts involved with your complaint. Use an extra sheet of paper, if needed.

See attached

Please clearly state what you want the Commission to do in this case.

See attached Complaint and Prayer for Relief therein.

Date: 12/2/04
(Month, day and year)

Complainant's signature 

If you will be represented by an attorney, please give the attorney's name, address and telephone number.

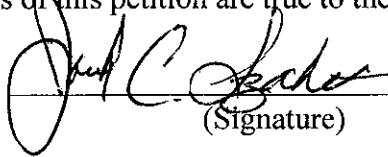
Timothy C. Lapp
Hiskes, Dillner, O'Donnell, Marovich & Lapp, Ltd.
16231 Wausau Avenue
South Holland, IL 60473
(708) 333-1234

You need to file the original and three copies of this form with the Commission and also provide the Commission with one copy for each utility complained about (referred to as respondents).

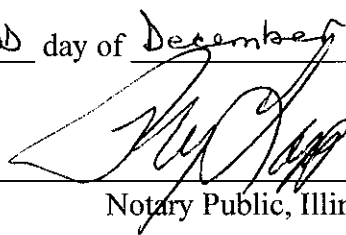
VERIFICATION

A notary public must watch you fill out this part of the form.

I, JOSEPH C. SZABO, first being duly sworn, say that I have read the above petition and know what it says. The contents of this petition are true to the best of my knowledge.


(Signature)

Subscribed and sworn/affirmed to before me this 2nd day of December, 2004.


Notary Public, Illinois



NOTE:

Failure to answer all of the questions on this form may result in this form being returned to you without processing. If you have questions, please call the counselor in the Consumer Affairs Division that handled your informal complaint.

IN THE ILLINOIS COMMERCE COMMISSION
527 E. Capitol Avenue
Springfield, IL 62701

UNITED TRANSPORTATION UNION -)	
ILLINOIS LEGISLATIVE BOARD)	
)	
against)	Case _____
)	File _____
CANADIAN PACIFIC RAILWAY)	

NOW COMES the UNITED TRANSPORTATION UNION - ILLINOIS LEGISLATIVE BOARD ("UTU"), by and through its attorneys, HISKES, DILLNER, O'DONNELL, MAROVICH & LAPP, LTD., and for its Complaint against CANADIAN PACIFIC RAILWAY ("CP") states as follows:

1. This Complaint pertains to the West Yard at CP's rail switching yard at Bensenville, Illinois.

BACKGROUND

2. Up until approximately seven (7) years ago, CP provided a shelter building for engineers and switchmen in the West Yard. This shelter was a full service building which included: locker room, restroom, shower, lunchroom and office equipment.

3. Approximately seven (7) years ago, the CP demolished the full service building and brought a trailer into the West Yard to serve as a shelter facility. The trailer contained male and female restrooms and a lunchroom/break room for the engineers and switchmen.

4. When the full service building was demolished, the CP required all the engineers and switchmen to utilize the locker room and showers at the General Yard Office. The General Yard Office is not located in the West Yard where the work is performed and is more than one (1) mile by rail, approximately 1.5 miles by internal roadway or two (2) miles by municipal roadway from the West Yard.

5. On or about March 9, 2004, the UTU lodged an informal complaint with the Illinois Commerce Commission ("ICC") due to the conditions, among other things, of the shelter in the West Yard (See Exhibit "A" attached hereto).

6. On or about April 19, 2004, the ICC conducted an inspection of the West Yard facility, as well as three (3) other facilities at CP's Bensenville location. A written inspection report was prepared by the ICC and sent to CP. The ICC inspection report noted several violations which existed at the West Yard shelter. (See Exhibit "B" attached hereto).

7. On or about June 9, 2004, the ICC sent a follow-up letter to its inspection report of April 19, 2004, requesting information from the CP as to steps it was or had taken to remedy the violations noted previously. (See Exhibit "C" attached hereto).

8. On or about August 2, 2004, apparently in response to the ICC's inspection and request for remedial action, CP removed the trailer from the West Yard which had at least afforded the engineers and switchmen working in the West Yard with a restroom and lunch room/break area for their safety, comfort and convenience. (See Exhibit "D" attached hereto).

9. Since August 2, 2004, the engineers and switchmen who work in the West Yard have been without a shelter facility of any kind in the West Yard.

COMPLAINT

10. That at the West Yard of the CP Bensenville rail yard, the following violations of ICC regulations exist:

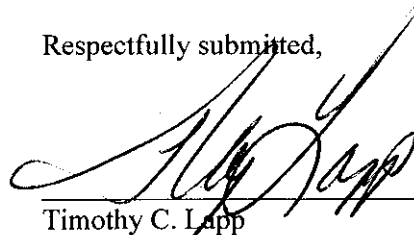
1. That in violation of 1545.110(c)(1), the CP has failed to provide engineers and switchmen who work in the West yard with adequate toilet facilities (male and female) which are conveniently located for the employees' use.
2. That in violation of 1545.120, the CP has failed to provide engineers and switchmen who work in the West Yard with adequate washing facilities which are conveniently located for the employees' use.

11. That pursuant to 1545.200, where shelter is requested by employees, shelter shall be provided by the railroad if that shelter is deemed necessary by the ICC.

12. That by this Complaint, if the CP desires to argue that it has not been already, the UTU, on behalf of its CP employees, requests that a shelter facility be provided for the West Yard employees. That further, said shelter facility should, at a minimum, contain adequate restrooms, a lunch room/break area and sufficient lockers for use by engineers and switchmen working in the West Yard.

WHEREFORE, the UTU, on behalf of its union members employed by the CP, respectfully requests that this Court grant all relief within the power and authority of the ICC, including an order directing the CP to provide a shelter facility for the West Yard employees. Further, that the CP be directed to provide the ICC with plans for said shelter facility for review and approval by the ICC prior to construction of said shelter facility and for such other and further relief as this Court deems fair and reasonable.

Respectfully submitted,



Timothy C. Lapp
Attorney for United Transportation Union -
Illinois Legislative Board

Timothy C. Lapp
HISKES, DILLNER, O'DONNELL,
MAROVICH & LAPP, LTD.
16231 Wausau Avenue
South Holland, IL 60473
(708) 333-1234
Atty. No. 80407



united transportation union

Illinois Legislative Board

8 S. Michigan Avenue Suite 2006 Chicago, Illinois 60603 Phone: (312) 236-5353 Fax: (312) 236-8209

JOSEPH C. SZABO

State Legislative Director

J.H. BURNER

Assistant Legislative Director

R.W. LINROTH

Alternate Legislative Director

P.W. SIMMONS

Director Emeritus

L.R. HOLMAN

Chairman

J.D. O'BRIEN

Vice-Chairman

D.L. KORTUM

Secretary

March 9, 2004

Mr. Michael Stead

Illinois Commerce Commission

527 East Capital Avenue

Springfield, IL 62701

Dear Sir:

Enclosed please find a letter of complaint, and corresponding photographs, regarding alleged non-complying facilities at the Canadian Pacific Railway Bensenville yard.

I request that you schedule a joint inspection between representatives of your office, my office and CP management to document and discuss conditions.

Please advise when a mutually acceptable date can be arranged.

Sincerely,

Joseph C. Szabo

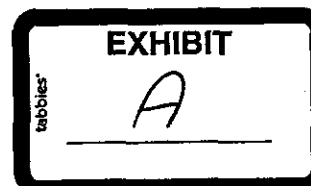
State Director

Enclosures

cc: L. Grzybek, UTU, LR #1433
D. Loresch, UTU, Sec. #1433

REPRESENTATIVES

168	D.R. Omas
171	T.M. Dwyer
195	R.W. Linroth
196	R.D. Zillion
198	E.J. Kavanaugh
234	R.W. Guy
258	C.D. Volk
432	J.H. Burner
445	R.L. Ficht
453	L.R. Holman
469	L.F. Adamove
528	R.E. Parsons
565	G.L. Harper
577	D.L. McDonough
597	M.F. Doyle
620	G.T. Beck
653	J.E. McCarthy
740	H.E. Kijewski
768	J.D. Shively
979	C.E. Whyers
1003	J.C. Homan
1083	C.L. Fields
1258	M.S. Azzi
1290	J.D. O'Brien
1299	W.A. Booth
1358	D.W. Petet
1402	W.R. Melican
1421	J.C. Pastore
1423	E.A. Walck
1433	J.R. McNiff
1494	M.D. Mount
1525	W.P. Beyer
1534	R.F. Sullivan
1538	D.G. Martz
1597	J. Strejc
1883	D.L. Kortum
1895	R.J. Ross
1929	K. Guetterman
1973	T.H. Rodgers



STATE OF ILLINOIS



APR 28 2004

**ILLINOIS COMMERCE COMMISSION
TRANSPORTATION DIVISION / RAIL SAFETY SECTION**

Michael E. Stead

Rail Safety Program Administrator

April 22, 2004

Mrs. Debbie Bachtazar
Manager Facilities
Canadian Pacific Railway
501 Marquette Avenue
Minneapolis, MN 55402

Dear Mrs. Bachtazar:

This letter is a summary of findings from the follow-up inspection of shelter facilities for rail employees at the Canadian Pacific Railroad (CP) Bensenville rail-switching yard¹, located in Bensenville, Cook County, Illinois. Bob Wagoner, Operating Practices Inspector, representing this office conducted the follow-up inspection on April 19, 2004. John O'Brien, United Transportation Union (UTU), Lester Grzybek, UTU, and James Emkow, CP Rail Yard Manager- Bensenville Field Operations also participated in the inspection.

Inspections were conducted of the West Yard, East End Welfare, C, and Intermodal Strip Trailers. Results of the inspections indicate that existing conditions in the East End Welfare, West Yard, and Intermodal Strip Trailers in Bensenville Yard do not meet the minimum requirements of 92 Illinois Administrative Code (IAC) Part 1545. No exceptions were taken of existing conditions in the C Trailer. Mr. Wagoner provided Mr. Emkow, in his capacity as representative of the railroad, a copy of the rule. Exceptions taken during inspection of the West Yard Trailer include:

- Ventilation fans in the ladies restroom were not working at the time of the inspection.
- The soap disposer in the ladies restroom was lying on the floor.
- The urinal in the men's restroom was not working.
- The ventilation fan in the men's restroom was not working at the time of the inspection.
- A storage closet in the men's restroom is missing a door; the door needs to be reinstalled.
- The lunchroom area did not have any ventilation for employees.
- No covers for trash receptacles in the lunchroom area.
- The floor in the lunchroom area was very dirty, with several tiles missing and dirt piled along the base of the walls. In addition, screens on the windows need to be repaired.
- Water in the holding tanks should be tested by the Health Department, to assure it is for the employees to use.

Exceptions taken during inspection of the East End Welfare Trailer include:

- The lockers do not meet the 92 IAC 1545 standards.
- All toilets were in working order in the facility, but men and women share one restroom; the restroom door had a locking device from the inside of the restroom.
- The shower does not work, and needs to be cleaned and disinfected.
- No ventilation in the restroom.
- No covers for trash receptacles in the lunchroom area.
- No ventilation in the lunchroom area.
- A door on a storage closet near the lunchroom needs to be repaired, and must be kept closed while employees are eating lunch in this area.
- Screens must be added to all windows of the building.
- The building needs to be cleaned daily with the number of employees using the building 24 hours a day seven days week



Mrs. Debbie Bacthazar

April 22, 2004

Page Two

Findings from the inspection of the restroom and lunchroom area in the Intermodal Strip Trailer are as follows:

- No ventilation in the restroom or lunchroom.
- No covers for trash receptacles in the lunchroom.
- Screens must be added to all windows of the building.
- Floors must be cleaned.

Findings from the inspection of the locker room and restroom area, located in the main office building where employees report for duty, are as follows:

- Floors need to be cleaned.
- No ventilation in the restroom.
- "Auto Flush" urinals operating properly.
- No toilet paper available for the employees.
- The showers need to be cleaned and disinfected.
- Standing water on the floor in front of the hand-washing stand.

The railroad is required to take steps to bring the excepted areas of the facility into compliance with 92 IAC 1545. It is our understanding that CP has a cleaning service working six days a week. CP should re-evaluate the cleaning service, as the employee facilities are not as clean as required (92 IAC 1545.20 requires rail carriers to provide and maintain sanitary shelters for employees).

Please arrange for your company to make repairs/improvements to address the existing conditions noted by the inspection of the locker rooms, restroom, and crew lunchroom areas of the Bensenville Yard switching crew facility. Provide this office with a written schedule of those repairs/improvements within the next 30 days. Please refer to requirements outlined in 92 IAC Part 1545, and include local union representatives when planning the necessary repairs/improvements.

This concludes our summary of the April 19th inspection. Mr. Wagoner will schedule a follow-up inspection of the Bensenville switching crew facility late August 2004. If you have any questions, please contact Bob Wagoner, Operating Practices Inspector, at (309) 462-5556.

[¹Note: It is our understanding CP Rail has plans to replace the East End Welfare, C and Intermodal Strip Trailers with a new building. Until that improvement project is complete, CP Rail is required to take steps to bring the excepted areas of the facility into compliance with 92 IAC 1545.]

Very truly yours,



Michael E. Stead,
Rail Safety Program Administrator

Enclosure

cc: Joe Szabo, UTU
John O'Brien, UTU
Lester Grzybek, UTU
Jim Emkow, CP
Greg Simmons, CP

RW

STATE OF ILLINOIS

ILLINOIS COMMERCE COMMISSION
TRANSPORTATION DIVISION / RAIL SAFETY SECTION

Michael E. Stead
Administrator

Rail Safety Program

June 9, 2004

Mrs. Debbie Bacthazar
Manager Facilities
Canadian Pacific Railway
501 Marquette Avenue
Minneapolis, MN 55402

Dear Mrs. Bacthazar:

This letter is in follow-up to a previous letter I sent you, dated April 22, 2004, with which I outlined a summary of findings from the inspection of shelter facilities for rail employees at the Canadian Pacific Railroad (CP) Bensenville rail-switching yard, located in Bensenville, Cook County, Illinois. Bob Wagoner, Operating Practices Inspector, representing this office conducted the inspection on April 19, 2004. John O'Brien, United Transportation Union (UTU), Lester Grzybek, UTU, and James Emkow, CP Rail Yard Manager- Bensenville Field Operations also participated in the inspection.

With my April 22nd letter I requested that you arrange for your company to make repairs/improvements to address the existing conditions noted by the inspection of the locker rooms, restroom, and crew lunchroom areas of the Bensenville Yard switching crew facility. I also requested that you provide this office with a written schedule of those repairs/improvements within 30 days. To date, we have not received any indication that Canadian Pacific Railway is making repairs/improvements to address the existing conditions at the Bensenville Yard switching crew facility, nor have I received a copy of those planned repairs and improvements.

The railroad is required to take steps to bring the excepted areas of the facility into compliance with 92 IAC 1545. Please arrange to have a written schedule of the railroad's plans to make repairs/improvements to the Bensenville Yard switching crew facility forwarded to office within the next 14 business days. Failure to do so could result in initiation of formal complaint proceedings by this office.

Thank you for your prompt attention to this matter. If you have any questions, please contact Bob Wagoner, Operating Practices Inspector, at (309) 462-5556.

Very truly yours,

Michael E. Stead,
Rail Safety Program Administrator

cc: Joe Szabo, UTU
John O'Brien, UTU
Lester Grzybek, UTU
Jim Emkow, CP
Greg Simmons, CP



JUL-30-04 13:22 FROM-ALLMETAL INC

+16307661082

T-400 P.02/02 F-280

MOY 2004- 869

**CANADIAN
PACIFIC
RAILWAY****OFFICE OF THE MANAGER OPERATIONS - YARD**

Bensenville, IL

MOY - Notice No. 869

JULY 28, 2004

Current MOY in Effect 869

To: All Concerned

Subject: Discontinuance of West Yard Trailers

Effective Monday, August 2, 2004, the West Yard crew trailer and restroom trailer will no longer be available to employees working in the West Yard location.

Assignments that are accustomed to retrieving Work Lists, Track Warrants, Train Bulletins and Yardmaster Job Briefing/Initial Instructions at the West Yard must secure these items at the General Yard Office, after reporting for duty and before being transported to the West Yard for the locomotive and train.

Assignments working exclusively in the West Yard will be expected to move their locomotive to a yard location that facilitates taking their meal period at the General Yard Office. Crew members needing to use restroom facilities during their tour of duty are expected to use the toilet facility on their locomotive.

At the commencement of an assignment's tour of duty, transportation will be provided from the West Yard location to the General Yard Office for turning in faxing and telephoning CST assignment paperwork and CMA tie-up. LSOP assignments are expected to tie-up within twenty (20) minutes after arrival at the General Yard Office and all other assignments within ten (10) minutes after arrival at General Yard Office.

If you have any questions, concerns or comments regarding this notice, please contact a manager on duty.

Blane M. Marien
Manager Operations - Yard

****Remember**** Please contact your Employee Assistance Program at 1-800-777-0618 for any social or personal problems that you or your family need help with.

EXHIBIT

tabbles